

## Message Text

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PAGE 01 PARIS 14651 01 OF 02 081807Z  
ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 CAB-05 CIAE-00 COME-00  
DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00 L-03 SS-15  
SP-02 NSC-05 ITC-01 /062 W  
-----044122 081835Z /43

R 081715Z MAY 78

FM AMEMBASSY PARIS  
TO SECSTATE WASHDC 1178  
INFO AMEMBASSY LONDON  
AMEMBASSY BONN  
AMEMBASSY ROME  
AMEMBASSY BERN  
AMEMBASSY THE HAGUE  
AMEMBASSY BRUSSELS  
AMEMBASSY MADRID  
AMEMBASSY LISBON  
AMEMBASSY DUBLIN  
AMEMBASSY COPENHAGEN  
AMEMBASSY STOCKHOLM  
AMEMBASSY OSLO  
AMEMBASSY LUXEMBOURG

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E.O. 11652: N/A  
TAGS: EAIR, FR  
SUBJECT: CIVAIR: NEW CAB PROPOSALS FOR CHARTER RULES

FOLLOWING IS AN UNOFFICIAL EMBASSY TRANSLATION OF A LETTER DATED APRIL 28 TO THE CIVIL AIR ATTACHE FROM CLAUDE ABRAHAM, DIRECTOR GENERAL OF CIVIL AERONAUTICS FOR FRANCE, IN WHICH HE OFFICIALLY COMMENTS ON THE MARCH 14 CIVIL AERONAUTICS BOARD NOTICE OF PROPOSED RULE MAKING TO CHANGE CERTAIN U.S. CHARTER RULES. THE LETTER IS BEING ACKNOWLEDGED BY THE EMBASSY, WITHOUT SUBSTANTIVE REPLY, AND UPON REQUEST WILL BE FORWARDED

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IN ITS ORIGINAL VERSION TO THE CAB FOR INCLUSION IN THE DOCKET.

QUOTE FOLLOWING ARE MY COMMENTS ON CAB'S PROPOSAL FOR CHARTER FLIGHT REGULATIONS PUBLISHED MARCH 14. THE PROJECT AIMS ESSENTIALLY AT ABOLISHING FLIGHT CATEGORIES SUCH AS ABC, TGC, ITC, OTC, SGC, SEC AND "AFFINITY" AND

REPLACE THEM WITH A SINGLE PUBLIC CHARTER" CATEGORY.  
THE OBLIGATION BY THE CARRIER TO COMMERCIALIZE HIS  
FLIGHTS THROUGH A CHARTER OPERATOR IS THE ONLY CONDITION  
IMPOSED ON THIS NEW CATEGORY.

I AM NOT ARGUING THAT THE PUBLIC SHOULD NOT BE GIVEN  
A WIDER RANGE OF TRANSPORTATION POSSIBILITIES AT BETTER  
PRICES. HOWEVER, I DO CONSIDER THAT IN THE LONG RUN THE  
MEASURES BEING CONSIDERED MAY SIGNIFICANTLY PREJUDICE  
THE ECONOMIC VIABILITY OF AIR TRANSPORTATION OVER THE  
NORTH ATLANTIC WHILE CONSTITUTING A UNILATERAL CHALLENGE  
TO THE PRINCIPLES REGARDING THE DISTINCTION BETWEEN  
SCHEDULED AND NON-SCHEULED FLIGHTS, SUCH PRINCIPLES  
BEING RECOGNIZED INTERNATIONALLY.

FROM STRICTLY AN ECONOMIC STANDPOINT, THIS LIBERALIZATION OF THE OPERATING CONDITIONS APPEARS TO ME BOTH PREMATURE AND FULL OF CONSEQUENCES THAT COULD BECOME DETRIMENTAL TO THE ENTIRE AVIATION COMMUNITY.

IT IS NOT LEGITIMATE THEREFORE TO DRAW ARGUMENTS FROM THE INTRODUCTION OF NEW COMPETITIVE TARIFFS SUCH AS SUPER APEX, BUDGET AND STANDBY FARES TO JUSTIFY NEW MEASURES LIBERALIZING CHARTER CONDITIONS, WHILE IT IS STILL TOO PREMATURE TO FULLY SIZE UP THE COMPETITIVE IMPACT OF THESE TARIFFS. FURTHERMORE, THESE TARIFFS WERE INTRODUCED ONLY FOR THE 1978 SUMMER SEASON AND ON A LIMITED NUMBER OF ROUTES WITH, IN MOST CASES, STRICT LIMITATIONS OF CAPACITIES. THIS IS THE CASE IN FRANCE

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WHERE THE NEW "MID-WEEK" TARIFF IS APPLICABLE TO ONLY TWO WEEKLY PARIS AND NEW YORK FLIGHTS AND FOR 40 PER CENT OF THE SAEATS.

UNDER THESE CONDITIONS, NON-SCHEDULED SERVICES REMAIN PERFECTLY COMPETITIVE AND NOTHING, AT LEAST AT THIS STAGE, CAN JUSTIFY LIBERALIZING OPERATING CONDITIONS. I WOULD LIKE TO REMIND, AT THIS POINT, THAT THE TRAFFIC OF CHARTER FLIGHTS BETWEEN THE U.S. AND FRANCE (90 PER CENT OF IT BY AMERICAN COMPANIES) HAS INCREASED BY 42 PER CENT BETWEEN 1975 AND 1976 AND BY 39 PER CENT BETWEEN 1976 AND 1977 WHILE DURING THE SAME PERIOD REGULAR TRAFFIC HAS INCREASED 13 AND 9 PER CENT.

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LOOKING BEYOND THE SHORT TERM AND PURELY OPPORTUNISTIC CONSIDERATIONS, I FURTHER BELIEVE THAT THE MEASURES ENVISIONED STEM FROM A TENDENCY WHICH THREATENS THE VIABILITY OF REGULAR AS WELL AS NON-REGULAR OPERATIONS OVER THE NORTH ATLANTIC. ANY RELAXATION OF REGULATION FOR NON SCHEDULED FLIGHTS HAS SO FAR RESULTED IN TARIFFS ON REGULAR FLIGHTS DESIGNED TO RESTORE COMPETITIVENESS WHICH, IN TURN, CALLS FOR A NEW EASING OF OPERATING CONDITIONS OF NON REGULAR SERVICES. THIS OVERBIDDING OF THE PRICE DECLINE WHICH TODAY THREATENS THE FINANCIAL BALANCE OF THE LESS COMPETITIVE CARRIERS MAY FORCE SOME OF THEM, REGULAR AND NON REGULAR, TO WITHDRAW FROM THE UNCLASSIFIED

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MARKET, THUS CAUSING ON CERTAIN ROUTES QUASI-MONOPOLISTIC SITUATIONS WHICH ARE POLITICALLY UNACCEPTABLE. FURTHERMORE, IT IS EASY TO PREDICT THAT THIS ACTION, AFTER A TEMPORARY LOWERING OF THE TARIFFS, WILL CREATE ECONOMIC CONDITIONS FAVORABLE TO A REINCREASE OF TARIFF AND CHARTER PRICES, WHICH GO AGAINST THE PUBLIC INTEREST.

FROM A LEGAL STANDPOINT, THE MEASURES ENVISIONED IN THE NPRN OF 14 MARCH WILL WIPE OUT THE DISTINCTION

BETWEEN REGULAR AND NON REGULAR SERVICES AND SO RENDER  
VOID ARTICLE 5 AND 6 OF THE CHICAGO CONVENTION.

THESE MEASURES DO, IN FACT, FOR EXISTING NON SCHE-DULED FLIGHT CATEGORIES (EXCEPT "MILITARY CHARTER" AND "SINGLE ENTITY") NULLIFY THE WHOLE ARGUMENT FOR ADMITTING THE CONCEPT OF CHARTER OPERATIONS, THE JUSTIFICATION OF WHICH CONSIST PRECISELY IN THE NECESSITY FOR A CLEAR DISTINCTION BETWEEN SCHEDULED AND NON SCHEDULED AIR SERVICES.

THE "PUBLIC CHARTER" PROPOSAL TO REPLACE THE EXIST-ING OLD CATEGORIES ENTAILS HENCEFORTH THAT THE ENTIRE DISTINCTION BETWEEN THE TWO TYPES OF SERVICE IS BASED SOLELY ON THE EXISTENCE OF A CHARTER CONTRACT: THE OTHER CHARACTERISTICS OF THE "PUBLIC CHARTER" I.E. POSSIBILITY OF CANCELLING THE FLIGHT FOR COMMERCIAL REASONS, PENALTY TO PASSENGERS CANCELLING RESERVATIONS 15 DAYS PRIOR TO DEPARTURE, OBLIGATION TO RESERVE THE RETURN FLIGHT BEFORE THE DEPARTURE IN THE CASE OF ROUND TRIP FLIGHTS, ONLY AFFECT THE SECONDARY ELEMENTS OF THE OPERATION, SOME OF WHICH ARE NOT EVEN PROPER TO CHARTER FLIGHTS AND CANNOT BE TAKEN INTO CONSIDERATION TO DISTINGUISH BET-WEEN SCHEDULED AND NON SCHEDULED SERVICES.

RESORTING ONLY TO THE EXISTENCE OF THE CHARTER CONTRACT AS A CRITERIA IS DEFINITELY INSUFFICIENT TO UNCLASSIFIED

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ENSURE THIS DISTINCTION. IT PARTICULARLY REVEALS IN-SUFFICIENCY IN THE CASE OF IN PART CHARTER, A CONCEPT ADMITTED BY SEVERAL STATES INCLUDING FRANCE IN ITS "BLOCK OF SEATS" CONFIGURATION.

THEREFORE IT IS, IN FACT, THE DISTINCTION BETWEEN SCHEDULED AND NON-SCHEDULED AIR SERVICE WHICH IS BEING CHALLENGED THROUGH THE CAB PROPOSAL AND SO ARE THE TERMS OF THE CHICAGO CONVENTION. BEYOND THE REQUIREMENTS FOR CONSULTATION BETWEEN STATES CCERNED, TO WHICH FRANCE IS PARTICULARLY SENSITIVE, IT DOES NOT APPEAR ACCEPTABLE TO ME THAT ONE OF THE VERY FOUNDATIONS OF THE INTER-NATIONAL AIR TRANSPORTATION BE MODIFIED UNILATERALLY IN THIS MANNER.

I WOULD APPRECIATE IF YOU WOULD BRING THE ABOVE COMMENTS TO THE ATTENTION OF THE U.S. AUTHORITIES CONCERNED. UNQUOTE.

HARTMAN

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## Message Attributes

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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** RULES, CIVIL AVIATION, TEXT, DIPLOMATIC COMMUNICATIONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 08 may 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
**Disposition Date:** 01 jan 1960  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
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**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
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**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
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**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
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**TAGS:** EAIR, FR, US, CAB, (ABRAHAM, CLAUDE)  
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**Type:** TE  
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**Review Markings:**  
Sheryl P. Walter  
Declassified/Released  
US Department of State  
EO Systematic Review  
20 Mar 2014  
**Markings:** Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014